



NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE GENERAL COUNSEL

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NLRB AND ALASKA PULP CORPORATION REACH AN AGREEMENT WORTH MORE THAN \$10 MILLION IN BACKPAY

National Labor Relations Board (NLRB) General Counsel Fred Feinstein today announced that the NLRB and Alaska Pulp Corporation (APC) have reached an agreement for APC to place more than \$10 million into a Board account, for eventual satisfaction of a backpay order issued by the Board.

The settlement follows a May 26, 1995 order by the United States District Court for the District of Columbia requiring APC to provide the Board with information regarding several suspect financial transactions involving APC and its officers and affiliates, and a March 6, 1995 decision by the General Accounting Office honoring the Board's request that funds awarded APC in an unrelated court case against the United States Forest Service be withheld to partially satisfy an eventual Board backpay order.

APC's debt to the Board arises from a Board decision, *Alaska Pulp Corp.*, 296 NLRB 1260, in which the Board held that APC had violated the National Labor Relations Act by, among other things, failing and refusing at the end of a strike in 1987 at its Sitka, Alaska pulp mill to offer more than 100 unreinstated strikers their appropriate pre-strike positions. Specifically, the Board found that APC had offered those strikers who sought reinstatement only entry-level positions, regardless of their previous seniority. The Board held that this arrangement unlawfully created a subordinate class of employees -- strikers who opted to remain on strike for its duration -- and thus punished the strikers by ensuring that they would be relegated upon return to jobs that paid lower wages, were more onerous, and were more susceptible to layoff. To remedy APC's unlawful actions, the Board ordered APC to pay backpay to strikers who did not receive valid reinstatement offers. On September 18, 1991, the Ninth Circuit Court of Appeals entered its judgment enforcing the Board's order in full.

During the Board's subsequent proceedings to liquidate the amount of backpay APC owed to the Board, estimated by the Board to be close to \$10 million, APC closed the Sitka mill. In order to ensure that sufficient funds would be available to satisfy the backpay liability, the Board subpoenaed records concerning, among other things, certain large payments by APC's wholly owned subsidiaries to APC's senior officers and several other complex financial transactions that appeared designed to make APC judgment proof. In addition, the Board

requested GAO to withhold \$7.2 million that the federal government owes to APC as a result of litigation with the Forest Service. GAO announced that it had honored the Board's request in a letter dated March 6, 1995.

APC contested both the subpoena and the setoff claiming that the Board's actions were premature because the exact amount of backpay had not yet been determined. Rejecting APC's arguments, the District Court noted that "[a]n administrative agency does not have to wait until all the horses have been stolen from the barn before it closes the door."

Under the terms of the settlement, APC has agreed to withdraw its court challenge to the GAO's withholding of the \$7.2 million and to provide the Board with \$3 million for placement in a Board account to further ensure that funds will be available to substantially satisfy the backpay order when the amount owed the Board is finalized.

Commenting on these events, NLRB General Counsel Feinstein stated:

"We welcome APC's settlement of this dispute, which will ensure that funds are available to substantially satisfy the Board's backpay order. As this case demonstrates, the Board will aggressively pursue appropriate remedies. The Board will not stand idle when it sees attempts to frustrate its remedial orders. Contempt Branch Attorney Steven Gordon and Region 19 Attorneys Pat Dunham and Jim Sand are commended for their work on this case."

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